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**TO: Economic Support Supervisors
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W-2 Agencies**

**FROM: Amy Mendel-Clemens
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BHCE/BWP OPERATIONS MEMO

No.: 03-07

Date: 02/14/2003

Non W-2 ☐ W-2 ☐ CC ☒

PRIORITY: HIGH

SUBJECT: REVISED DWD 56

CROSS REFERENCE: Administrative Rule DWD 56
Day Care Manual
BPS Operations Memo 02-24 and 02-71

EFFECTIVE DATE: February 1, 2003

PURPOSE

1. This memo provides information on changes made to administrative rule Chapter DWD 56, Administration of Child Care Funds.
2. Clarify/retract policy distributed in BPS Operations Memo 02-24.

POLICY

CHAPTER DWD 56 ADMINISTRATION OF CHILD CARE FUNDS RULE CHANGE:

Administrative Rule DWD 56 can be accessed at: <http://www.legis.state.wi.us/rsb/code/dwd/dwd056.pdf>

Creation of more precise categories for maximum reimbursement rates: The age categories used for setting maximum rates will change from two to four. The new age categories are under 2yrs, 2-3yrs, 4-5yrs and 6yrs and older. The new age categories will become effective on February 2, 2003.

Increased focus on monitoring to prevent and address fraud and overpayments: The new rules authorize increased monitoring authority in the following ways:

1. The child care administrative agency may refuse to authorize to a licensed provider should the provider refuse to submit documentation of their prices in response to an agency request.
2. The rates on CCRA can be end-dated in order to end current authorizations and prevent the entry of future authorization.
3. An agency may authorize payments to a licensed provider based on **attendance** rather than enrollment if the agency has documented 3 separate occasions where the provider significantly over reported the attendance of a child. OCC has defined "significantly over reported attendance" as:
 - a) The child was reported as being in care when they did not attend, or
 - b) The child was reported as being in care hours equal to or greater than the divisor (fulltime hours) when the child was actually in care hours less than the divisor (part-time hours)

This policy will allow local agency staff to recover overpayments from attendance based authorizations.

NOTE ➤ Plans to automate this policy in CARES have been put on hold, however, local agencies can implement this policy by adding a comment on CCPD noting that workers should authorize based on attendance only to the provider due to past inaccurate reporting.

4. The child care agency may refuse to issue new authorizations to the provider for a period not to exceed 6 months, revoke existing authorizations or refuse to issue payments if the provider:
 - a) Submits false attendance reports;
 - b) Refuses to provide documentation of the child's actual attendance;
 - c) Gives false or inaccurate child care price information; or
 - d) Has not corrected a certification or licensing violation as described in the written violation corrective action notification.

Written notice must be given to the parent and provider before the action can be taken.

If payment is not issued due to one of the provider violations listed above, the provider may not require the parent to make payment for the authorized amount. The parent remains responsible for paying the copayment and any amount that the parent agreed to above the maximum county rate for parents who hold authorizations.

The child care agency can change the provider category status from "approved" to "suspended without continuation of authorization/payment" on screen CCMC in order to end current/future authorizations and prevent other authorizations from being created.

5. The child care agency may:
 - a) Require a provider to submit documentation signed by the parent showing the actual times that the child was dropped off and picked up from the provider.
 - b) Contact the parents to determine the child's actual attendance hours.
 - c) Require a provider to submit attendance and payment records for families that pay for child care costs out of their own personal funds. (This will allow agencies to

- determine if provider prices submitted for the survey and CCRA are accurate and assist in determining the accurate group size).
- d) Require a provider to have attendance records available at the child care site whenever the agency requests to review them.
 - e) Conduct on-site inspections to monitor the provision of authorized services.
6. Limit the number of children that can be authorized to family day care providers.
7. The child care agency may limit the number of children authorized to a certified or licensed family provider for the period of time that it appears the provider may be over the group size limitations. Before authorizing to a family provider, when they appear to be over their group size, the provider would have to show that he/she would not exceed the applicable group size limitation.

Local agencies will be allowed to **not** authorize additional children to a provider that appears to be over their group size (as identified by the message on CCAC or one of the EOS reports CC49 or CC65) until the provider has been able to show that they would not be over their group size.

Providers can show that they are not over their group size by submitting information listing the children in care, the hours of care, the child's age and the child's relationship to the provider. Many agencies have forms that assist the provider in submitting this information. An automated Group Size Estimator tool is planned for release in March 2003.

Refusal to make payment when attendance is not submitted timely: An agency may refuse to make payment on an attendance report submitted more than 3 months after the attendance report was issued.

Future automation: An edit will be placed on CCAC that will prohibit authorizations from being entered with a begin date that is greater than 3 months in the past. In addition, CCAR and the CCPI (web attendance screen) will be enhanced so attendance cannot be entered for a period that is more than 6 months in the past.

Payment to providers through Electronic Funds Transfer (EFT): The department may issue all payments by electronic funds transfer.

Child care worker training requirement: County and tribal agencies must ensure that each new child care worker completes the Department's new worker training that pertains to child care administration during the first 6 months of employment. This requirement is currently in the child care contract. Training availability can be found at the Income Maintenance New Worker Central web site: <http://www.dwd.state.wi.us/destrain/IMNWCentral/default.htm>

New criteria for provider inclusion in the maximum rate survey: At least 25% of the licensed provider's capacity must be private pay children in order for the provider's price to be included in the calculation to determine the county maximum reimbursement rate.

Department option to contract annual rate survey: The department may arrange for a survey independent of the county or tribal agency. This rule gives the department flexibility in determining who will administer future rate surveys.

Child care providers can request a fair hearing: A child care provider may request a fair hearing through the Division of Hearing and Appeals (a departmental review under chapter 227, Stats.) should they disagree to the following action taken by the agency:

- a) Refusal to issue new child care authorizations or the ending of existing child care authorizations for one of the following reasons:
 - i) False attendance reporting,
 - ii) Refusal to provide attendance documentation,
 - iii) Submission of false provider prices, or
 - iv) Not timely correcting a regulation violation.
- b) Refusal to issue a payment to the provider determination of the provider's payment amount (this does not include the authorization amount);
- c) Determination of the amount of an overpayment (at the time of the overpayment determination or during the collection process); or
- d) Recovery of the overpayment through the Wisconsin Department of Revenue tax intercept process.

An operations memo will soon be released regarding the provider appeal process and effective date. The rights and responsibility language will be updated on the appropriate CARES notices.

New reason added for changing the child care copayment: The child care copayment may be increased by the department by no more than 10% in the event that funding is not sufficient to meet the needs of all eligible families.

Provider signed agreement to adhere to child care policies: Prior to receiving authorizations or payments, providers must sign a statement agreeing to adhere to child care subsidy attendance reporting requirements and all program monitoring efforts.

OCC is in the process of creating a standard statement for providers to sign. An operations memo will be sent once the statement has been finalized describing the use of the form. Until the operations memo is released, local agencies are not required to meet this requirement.

RULE AUTHORITY FOR CURRENT POLICY:

Backdating payment to certified providers: The child care agency may authorize payment to providers who become certified from the date the certification application was received by the certifying agency. (Child Care Manual, Chapter 4, Section 2.3.0)

Authorizations for a two-parent assistance group: Authorizations should be entered for two parent families only when both parents are in an approved activity or if one parent is in an approved activity and the other parent is unable to care for the child (ren) due to a disability or health condition that is verified by a doctor, psychiatrist or psychologist. (Day Care Manual, Chapter 1, Section 3.1.0.)

Circumstances under which payment can be made to hold a child care slot: An agency may authorize payment to a licensed or certified provider to hold a slot for a child if the parent has a temporary break in employment and intends to return to work and continue to use the child care provider upon returning to work. The agency may authorize payment for no more than 6 weeks if the absence is due to a medical reason and is documented by a physician or for no more than 4 weeks if the absence is for other reasons. The Department and child care administrative agency may not consider payment for a temporary absence to be an overpayment if the parent intended to return to work but does not actually return. (Day Care Manual, Chapter 1, Section 8.2.3 and Chapter 3, Section 2.9.0)

Definitions: The following definitions have been added to the rule:

Special needs – same as the special needs definition that is in the Day Care Manual, Chapter 1, Section 8.2.2.

Income - has been updated to exclude child support payments received so that the rule is consistent with the statute.

Kinship care relatives - has been updated to include long-term kinship and kinship care relatives so that the rule is consistent with the statute.

CLARIFICATION/RETRACTION OF REFUSAL TO AUTHORIZE PAYMENT WHEN THE PARENT IS THE CHILD CARE WORKER POLICY

Refusal to authorize payment to a provider if they are the parent of the child: The Senate Committee of Human Services and Aging required the department to remove language from the proposed DWD 56 rule regarding not authorizing payment to a parent if they are the child care provider. The senate committee indicated that the department did not have statutory authority to prohibit authorization under this condition. This nullifies the policy described in BPS Operations Memo 02-24.

NOTE ➤ State statute still prohibits authorizations to a provider for the care of their own child.

Example 1: Betty is a certified provider and her child is Susie. An authorization cannot be made to Betty to care for her child, Susie.

Example 2: Betty is a certified provider. If Betty is eligible for child care, Betty can receive an authorization for another regulated provider to care for her child during the hours that Betty is doing day care.

Example 3: Betty is a certified provider and hires Rachel to care for the day care children. Rachel brings her son, Mike to work with her. Rachel is eligible for child care funding. Rachel can receive an authorization to Betty's day care.

Example 4: Kinder Care is a licensed group center. Veronica works at Kinder Care and is eligible for child care funding. Veronica can receive an authorization to Kinder Care regardless if she cares for her child at the center.

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Note: Email contacts are preferred. Thank you.

DWD/DWS/OCC/RB